

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARYLE G. EMEL,	:	No. 4:09-CV-0664
	:	
Plaintiff,	:	
v.	:	(Judge McClure)
	:	
ELIZABETH SINGLETON, et. al.,	:	
	:	(Magistrate Judge Blewitt)
Defendants.	:	

MEMORANDUM

August 13, 2010

BACKGROUND:

On April 10, 2009, plaintiff Charyle G. Emel, a resident of Milesburg, Center County, Pennsylvania, filed this action, pro se, pursuant to the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12101, et seq., and civil RICO, 18 U.S.C. §§ 1962, et seq. Plaintiff also raised constitutional claims for violations of her civil rights, including her due process rights, under *Bivens*¹, pursuant to 28 U.S.C. § 1331.

The case was initially referred to United States Magistrate Judge Thomas M. Blewitt.

¹ *Bivens v. Six Unknown Named Agents of Fed. Bur. of Narcotics*, 403 U.S. 388, 91 S.Ct. 1999 (1971).

On March 17, 2010, this court accepted a Report and Recommendation filed by Magistrate Judge Blewitt, and dismissed with prejudice all claims asserted by the plaintiff except for her civil RICO claim. With respect to plaintiff's civil RICO claim, we granted plaintiff 14 days to file an amended complaint. Plaintiff filed her amended complaint on March 31, 2010.

On April 14, 2010 all six defendants jointly filed a motion to dismiss plaintiff's amended complaint pursuant to Fed.R.Civ.P. 12. The motion was fully briefed. Now before the court is the Report and Recommendation of United States Magistrate Judge Thomas M. Blewitt, filed July 6, 2010, recommending that defendants' motion to dismiss plaintiff's amended complaint be granted with respect to plaintiff's RICO conspiracy claim under § 1962(d), that the complaint be dismissed, with prejudice, as to all six defendants, and that the case be closed. The magistrate judge also noted the futility of any further amendment of plaintiff's RICO claims.

At the conclusion of a thorough twenty-one page Report and Recommendation, Magistrate Judge Blewitt found that plaintiff has made no specific allegations that the defendants agreed to commit any predicate offenses under RICO. He also found that plaintiff has not properly stated that defendants engaged in a pattern of racketeering activity. Accordingly, the magistrate judge

found that plaintiff has failed to allege sufficient facts that defendants conspired to violate RICO, since the substantive claims against them under § 1962(c) are deficient.

On July 20, 2010, plaintiff filed a document entitled "Motion in Opposition to Dismiss". The court assumes, as did defense counsel, that this document was intended to constitute plaintiff's objections to the Report and Recommendation.

On July 21, 2010, defendants filed their response to plaintiff's objections to the Report and Recommendation, pointing out that in her single-page document, plaintiff has failed to assert any specific error on the part of the magistrate judge contained in his Report and Recommendation.

As the court agrees in full with the reasoning and conclusions of the magistrate judge set forth in his thorough Report and Recommendation, the same will be adopted in full for the reasons set forth therein. Plaintiff's objections will be overruled.

Finally, plaintiff on July 6, 2010, filed a motion for an interlocutory injunction to preserve evidence. As the court, in adopting in full the Report and Recommendation, is dismissing the complaint, this motion will be denied as moot.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge

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	:	(Magistrate Judge Blewitt)
Defendants.	:	

O R D E R

August 13, 2010

For the reasons set forth in the accompanying Memorandum,

IT IS ORDERED THAT:

1. The Report and Recommendation of United States Magistrate Judge

Thomas M. Blewitt, filed July 6, 2010 (Rec. Doc. No. 43) is approved and adopted
in full for the reasons set forth therein.

2. Plaintiff's objections to the Report and Recommendation, entitled

"Plaintiff's Motion in Opposition to Dismiss" are overruled.

3. Plaintiff's motion for an interlocutory injunction to preserve evidence

(Rec. Doc. No. 42, filed July 6, 2010) is denied as moot.

4. The clerk is directed to close the case file.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge